



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/638,231

08/07/2003

John E. Jones

247171-000379USP1

4127

41230 7590 02/02/2010

CUMMINS-ALLISON CORP.

C/O NIXON PEABODY LLP

300 S. Riverside Plaza

16th Floor

CHICAGO, IL 60606

EXAMINER

BHATNAGAR, ANAND P

ART UNIT

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

02/02/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/638,231	<b>Applicant(s)</b> JONES ET AL.	
	<b>Examiner</b> ANAND BHATNAGAR	<b>Art Unit</b> 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-26, 28-38, 41-43, 47, 48, 51-53 and 57-60 is/are pending in the application.
- 4a) Of the above claim(s) 22-26, 28-36, 42, 43, 52, 53, 58 and 60 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 11-21, 37, 38, 41, 47, 48, 51, 57, and 59 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08/07/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 2624

1. Applicant's amendment filed on 10/22/09 has been entered and made of record.
2. Applicant has amended claims 37, therefore the 35USC 101 rejection to this claim as well as claims 38 and 41 is withdrawn. Claims 10, 27, 39, 40, 44-46, 49, 50, 54-56, 61-68 have been canceled. Claims 22-26, 28-36, 42, 43, 52, 53, 58, and 60 have been withdrawn in the response, filed 01/12/09, to examiner's restriction filed 12/10/08. Currently, claims 1-9, 11-26, 28-38, 41-43, 47, 48, 51-53, and 57-60 are pending. Examiner refers to the action below.

***Allowable Subject Matter***

3. Claims 1-9, 11-21, 37, 38, 41, 47, 48, 51, 57, and 59 are allowed.
4. Applicant's arguments, see remarks pages 10-13, filed 10/22/09, with respect to claims 1, 37, 47, and 57 have been fully considered and are persuasive. The 35USC 101 rejection of claims 37, 38, and 41, 35USC 102 (e) rejection of claims 1, 2, 4, 6-9, 11-13, 16-21, 37, 38, 41, 47, 48, 51, and 57, and 35USC 103(a) rejection of claims 3, 5, 14, and 15 have been withdrawn.

***Conclusion***

5. This application is in condition for allowance except for the following formal matters: For the presence of non-elected, with traverse, claims 22-26, 28-36, 42, 43, 52, 53, 58, and 60.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANAND BHATNAGAR whose telephone number is (571)272-7416. The examiner can normally be reached on M-Th 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anand Bhatnagar/  
Primary Examiner, Art Unit 2624  
January 31, 2010